

CIRCULAR No. 331.

STATUS OF CERTAIN GOVERNMENT LANDS IN THE STATE OF
ARKANSAS WHICH WERE SHOWN ON THE ORIGINAL PLATS
AS "ST. FRANCIS RIVER SUNK LANDS" AND VARIOUSLY
NAMED LAKES.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, June 16, 1914.

To Settlers, Entrymen, and Others:

On December 12, 1908, and February 27, 1909, the Department of the Interior adjudged those lands situated in Tps. 11 to 16 N., R. 6 E., and Tps. 12 to 17 N., R. 7 E., in Poinsett, Craighead, and Greene Counties, Ark., which were left unsurveyed at the dates of the original surveys of those townships and which were meandered and shown on the township plats as the so-called St. Francis River sunk lands, to be public lands of the United States (vol. 37, Land Decisions, pp. 345 and 462).

The above referred-to decisions were made subject to a provision contained in the act of April 29, 1898 (30 Stat., 367), to the effect that the titles of persons who had purchased certain unconfirmed swamp lands within the aforesaid area, namely, the unsurveyed portions of the S. $\frac{1}{2}$, S. $\frac{1}{2}$ NE. $\frac{1}{4}$, and the S. $\frac{1}{2}$ NW. $\frac{1}{4}$ sec. 28, and the N. $\frac{1}{2}$ of sec. 33, T. 12 N., R. 6 E., and unsurveyed portions of sections 2, 3, 4, 5, 8, 9, and 10, to the extent of 1,560.70 acres in the aggregate, constituting a part of so-called Bagwells Lake, T. 17 N., R. 7 E., should not be disturbed. Sec. 36, T. 14 N., R. 6 E., although left unsurveyed at the date of the original survey of said township, was approved and patented to the State of Arkansas as swamp land under the provisions of the act of September 28, 1850 (9 Stat., 519), and of the confirmatory act of March 3, 1857 (11 Stat., 251). The information contained herein does not apply, therefore, to said described lands.

Subsequent to the above-mentioned dates the Department of the Interior has likewise adjudged those lands situated in Ts. 11 to 16 N., Rs. 9 to 13 E., in Mississippi County, Ark., which were left unsurveyed at the dates of the original surveys of those townships and which were meandered and shown on the township plats as Moon, Buford, Clear, Flat, Grassy, Walker, Carson, Hickory, Tyronza, and Campbells Old Field Lakes, to be public lands of the United States. The original surveys were held to have been erroneous in that the unsurveyed areas were returned as "sunk lands" or "lakes," when in fact they were in whole or in part lands in place when the surveys were made. Accordingly surveys thereof were directed and the plats were ordered to be corrected.

So-called Moon, Buford, Clear, Flat, Grassy, Walker, and Campbells Old Field Lakes have been surveyed and the plats of the townships within which those lands are situated have been corrected. The areas within the first-mentioned so-called lake were opened to homestead entry June 16, 1910, and the areas within the other six so-called lakes were opened to homestead entry November 16, 1912. Of the Government lands within the so-called sunk-land area proper, those in T. 12 N., R. 7 E., have been surveyed and were opened to homestead entry July 2, 1913; those in Tps. 11, 12, 13, and 14 N., R. 6 E., and 13 and 14 N., R. 7 E., have been surveyed, and information relative to the entering of Government lands therein may be obtained from the register and receiver of the United States land office at Little Rock, Ark.

The field work with reference to the surveys of the Government lands within the areas of so-called Carson, Hickory, and Tyronza Lakes, and also of the so-called sunk lands proper within Tps. 15 and 16 N., R. 6 E., and Tps. 15, 16, and 17 N., R. 7 E., has been practically completed and the work of correcting the plats is progressing as rapidly as possible. Due notice of the correction of said plats will be given when the work shall have been completed.

The status of the unsurveyed areas shown upon the original plats as so-called Big, Brown, Round, Golden, Mill, Hudgens, Dismal, and Youngs Lakes, all of which are situated in northeastern Arkansas, is now under consideration, in order to determine whether or not said areas come within the same category as the above referred to areas. Due notice will be given of the rendering of decisions at the proper time. Investigations may be made from time to time in order to ascertain the rightful ownership of lands within other so-called lakes in the State of Arkansas. This office can not, however, undertake to say at this time whether or not any of the above referred to lands, with respect to which decisions have not been rendered, will be claimed by the Government, nor can it say when decisions in the cases now pending will be rendered.

The above information does not apply to any lands which may be similarly circumstanced situated in the State of Missouri. This office has not ordered any investigations in that State and it can not say at this time whether or not any investigations will be made in the future. Investigations will be directed, however, if sufficient evidence shall be presented in a proper case tending to establish the fact that lands have been erroneously or fraudulently omitted from the Government surveys which should have been surveyed. If lands in the State of Missouri are being advertised for sale or disposal, such is a private enterprise in which the Government has no interest.

It is not to be implied from the foregoing description that the whole of each of the above-enumerated townships was declared to be Government land. On the contrary, only those portions of the several townships which were left unsurveyed at the dates of the original surveys thereof were involved in the above-mentioned decisions. The lands which were originally surveyed were patented years ago to the State of Arkansas under the provisions of the swamp-land grant of September 28, 1850 (9 Stat., 519), and the State has in turn conveyed her interests therein, so that the title is now within private ownership. The areas which were originally left unsurveyed and

which the Government now claims have, however, also been claimed or are now being claimed by private interests, which allege title through purchase from the State or from the St. Francis levee board or from riparian owners.

The lands described herein which the Government has asserted title to are to be considered in the same category as are other lands of the public domain, to the extent that they are open to settlement and at the proper time to entry under the homestead laws. The law permits settlers to enter upon the unsurveyed lands of the United States, requiring them to plainly mark the boundaries of their claims. When opened to entry bona fide settlers residing upon and cultivating the lands in good faith will be given three months' prior right over all other persons to make applications for their claims. No entries or filings can be allowed for any of the aforesaid lands until after the surveys thereof have been completed and approved by the Commissioner of the General Land Office and the plats thereof filed in the United States land office at Little Rock, Ark. Full notice of the time when applications to enter may be presented will be given the public through advertisement and otherwise by the register and receiver of the latter office, to which officers all communications relative to the formalities of entering said lands should be addressed.

Persons desiring diagrams showing entire portions of all or any part of the surveyed lands which adjoin unsurveyed areas may obtain township diagrams by sending postal money order for \$1 for each diagram desired to the receiver, United States land office, Little Rock, Ark. Persons desiring photolithographic plats of townships showing the extent to which surveys have been made thereon, and also meanders which form the boundaries between lands originally surveyed and those portions of townships which were left unsurveyed at date of original survey, can obtain the same from the Commissioner of the General Land Office, Washington, D. C., by mailing 25 cents for each township plat desired. There are two plats for each township, the original survey of which has been extended or corrected. With reference to these, persons desiring plats should state whether they desire a copy of the original plat or of the amended plat, or both. When the status of any lands is requested a description thereof by township, range, and section number and sectional subdivision should be given.

The question of title to some of the above-mentioned lands which were omitted from the original surveys has been involved in suits in which decisions have been recently rendered. Two of said suits went to the United States Supreme Court, one of which, that of *Little v. Williams* (231 U. S., 335), was decided December 1, 1913, the other, that of *Chapman and Dewey Lumber Company, etc., v. St. Francis Levee District* (232 U. S., —), was decided January 26, 1914. In the former suit the question of title to so-called Walker Lake, referred to above, was involved and the United States Supreme Court held in that case that the State of Arkansas relinquished under the terms of the compromise act of April 29, 1898 (30 Stat., 367), whatever title it may have had therein under the swamp land grant, if the lands were in fact swamp lands at the date of the Government survey, and that, therefore, neither the St. Francis levee district nor their transferees have any title thereto. The question of whether the title has vested in the riparian owners or in the United States was left for future determination. In the latter suit the question

of title to the so-called sunk lands area proper in T. 12 N., R. 7 E., was involved, and the United States Supreme Court held in that case that the title to said area in that township is in the United States..

On February 20, 1914, the United States District Court for the Eastern Division of the Eastern District of Arkansas rendered a decision in the suit of United States *v. Lee Wilson & Co. et al.*, in which it was held that the title of the area locally known as Moon Lake, referred to above, is in the United States.

While the decision of the issues, favorable to the Government, in the above referred to suits may be determinative of the issues involving the question of title to the remaining areas which the Government is claiming in the above enumerated townships, yet it will be necessary for the Government to continue with its suit previously instituted in the United States District Court for the Eastern Division of the Eastern District of Arkansas to quiet title in the Government to the area locally known as so-called Walker Lake involved in the suit of Little *v. Williams*, *supra*, and it will probably be necessary to also institute other suits similar to the suit of United States *v. Lee Wilson & Co. et al.*, *supra*, for the purpose of quieting title in the Government to all of the areas claimed by the Government and described in this circular the title to which has not been determined by the courts; in fact a number of such suits have already been instituted. Should the courts finally determine that the title to any portion or portions of said areas is not in the Government, settlers or entrymen thereupon will undoubtedly be ousted and the Government will have no authority to prevent such ouster. This risk, therefore, must be assumed by those making settlement or entry upon said lands. In order that the Government's suits may not be prejudiced by permitting the title of the lands which it is claiming to pass into the hands of private parties, it has been determined that the issuance of final certificates and patents to any of the aforesaid lands the question of title to which has not been finally adjudicated by the courts where suits have already been instituted or where the institution of suits is contemplated, will be withheld.

The above referred to court decisions do not in any wise disturb the title to any lands which were surveyed at the dates of the original surveys of the townships within which they are situated and which were patented to the State of Arkansas, and the Government is not laying any claim to the same.

This office can not undertake to say how soon the question of title will be finally adjudicated by the courts, nor when the plats of those townships, the surveys of which have not yet been corrected, will be ready for filing, nor does it have for distribution copies of the above referred to court decisions.

This circular supersedes the circular of January 2, 1914 (43L.D.41), pertaining to the same subject.

Very respectfully,

CLAY TALLMAN,
Commissioner.

Approved:

ANDRIEUS A. JONES,
First Assistant Secretary.

